Strength of Judges in High Courts

*91. SHRI N.R. DASARI:
SHRI RAJU PARMAR:†
Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that Government have created 94 more posts of judges in various High Courts;

(b) if so, the details thereof;

(c) whether it is a fact that there has been inordinate delay in filling up even the existing vacancies in the High Courts and Supreme Court; and

(d) if so, the details of the vacant posts, since when these are lying vacant and the measures being taken to speed up appointment of the judges?

THE MINISTER OF LAW AND JUSTICE (SHRI ARUN JAITLEY): (a) to (d) A Statement is laid on the Table of the House.

Statement

The Government has decided to raise the Judge strength of High Courts to 749, which is an increase by 94 Judges over the present strength of 655, following the comprehensive triennial review of the Judge strength of High Courts.

Filling up of vacancies in the High Courts is a continuous, consultative process among the constitutional authorities. While every effort is made to fill up the existing vacancies expeditiously, vacancies do keep arising on account of retirements, resignation or elevation of Judges.

After the Supreme Court Judgment of October 6, 1993 in the Supreme Court Advocates-on-Record & Anr. Vs. Union of India, read with the Advisory Opinion of October 28, 1998, the entire process of initiation of proposal for appointment of a Judge of a Supreme Court lies with the Chief Justice of India and for the appointment of a Judge of a High Court, with the Chief Justice of that High Court. The Government has, however, been requesting the Chief Justices of the High Courts, Chief Ministers

*The question was actually asked on the floor of the House by Shri [illegible]

and the Governors of the States, from time to time, to initiate proposals for filling up of the present and anticipated vacancies.

A statement showing the present approved strength, posts lying vacant as on 1.12.2003 in the Supreme Court as well as High Courts and the proposed increase, High Court-wise, is enclosed as statement-I.

Statement-I

Details of number of judges in the Supreme Court and High Courts

Sl. No.	Name of the Court	Present Approved strength	Vacancies as on 1.12.2003	Proposed increase
1	2	3	4	5
A.	**Supreme Court of India**	26	03	. .
B.	**High Courts**			
1.	Allahabad	95	29	. .
2.	Andhra Pradesh	39	07	. .
3.	Bombay	60	06	. .
4.	Calcutta	50	09	13
5	Chhattisgarh	06	03	02
6.	Delhi	33	08	03
.	Guwahati	19	07	08
.	Gujarat	42	12	. .
.	Himachal Pradesh	08	02	01
.	Jammu & Kashmir	14	06	. .
. .	Jharkhand	12	01	. .
12.	Karnataka	40	04	. .
13.	Kerala	29	04	11
14.	Madhya Pradesh	29	03	13

1	2	3	4	5
15.	Madras	42	07	05
16.	Orissa	16	04	11
17.	Patna	31	08	12
18.	Punjab & Haryana	40	14	13
19.	Rajasthan	40	19	. .
20.	Sikkim	03	01	. .
21.	Uttaranchal	07	02	02
	TOTAL	655	156	94

SHRI RAJU PARMAR: Mr. Chairman, Sir, there are 50 lakh cases pending in the various High Courts of India. Only 94 additional posts have been created. The number of additional posts created is very less, looking into the pendency of cases in various High Courts of India. Sir, I want to know why there is no increase in the posts of Judges in Gujarat High Court and when you are going to fill up the 12 posts of Judges in Gujarat High Court.

SHRI ARUN JAITLEY: Sir, the hon. Member has asked with regard to the increase of the Judge strength, of 94 additional Judges. I may just clarify that under an earlier direction of the Supreme Court, the Government of India has, on a three-year basis, or after every three years, been reviewing the Judge strength in each High court, and there is a settled criterion which has been determined for creating posts of additional Judges. The criterion, broadly, is to determine as to whether there is any increase as far as filing of cases in that High Court is concerned, and also to determine in relation to what is the national average of disposal of cases per judge. Where filing has increased, and the fact is that the Judges are disposing cases in consonance with or above the national average, then additional Judges' posts are being created as far as those High Courts are concerned. But where the disposal is below or far below the national average, then there is a necessity to add pace to the judicial disposal process as far as those High Courts are concerned. Now, it is an arithmetical formula. Of course, we have made one or two exceptions. Particularly, in the context of North-East we have made an exception because in the North-East there have to be six or seven

benches of the High Court. So, they need more than what the formula itself permits, and the Judge strength has been increased in relation to that particular formula.

As far as the appointments in any individual High Court are concerned, I have mentioned that even before the increase of the strength, amongst the old vacancies, about 156 posts are lying vacant. As for the new posts that we have created, we have asked for the approval of each State Government, because the infrastructure has to be prepared by the State Governments. As and when they grant their approval, the increase would be effected. As against these 156 posts, we have a total of about 80 recommendations, which are under process, in which the State which the hon. Member refers to is also included, and as and when the consultation process is completed, these appointments would be duly notified.

SHRI KAPIL SIBAL: Sir, the hon. Minister has just informed us that 156 posts are vacant. I remember, before the Advocates-on-Record case, the Judiciary used to squarely blame the Government that they know as to when a Judge is retiring, and they have got ample time to fill up the vacancy as and when a vacancy occurs. But now that the Judiciary itself has taken over the power of appointment, they are themselves aware of when a Judge retires. So I would like to know from the hon. Minister, as to where, who is responsible for the delay infilling up these vacancies. Has the Government, in its administrative capacity, done all it could to fill up the vacancies and is the responsibility squarely at the door of the Judiciary? Or, has the Judiciary done its part and the responsibility is squarely at the door of the Government?

SHRI ARUN JAITELY: Sir, without going into the entire arithmetical precision, the normal time which is spent in the entire consultation process once recommendations are received, is to long because there are various Constitutional Authorities who are to be consulted. In the first instance, the High Court collegium recommends a name, thereafter, the Government makes its own inquiries and expresses its own opinion. Simultaneously, we have to take the opinion of the Chief Minister of a State, the Governor of a State; thereafter, it is sent, with the entire details, to the Supreme Court, which consults its collegium and sends us the details back. Thereafter, after consulting the Prime Minister and the President of India,

12.00 Noon

the appointment process is completed. The approximate average life of this entire consultation process is about six months. From the moment a recommendation is received, it takes about six months, if all goes in the normal course, before it can be notified. Now, Mr. Sibal wanted to know where really the delay is. Normally, this six months, except in exceptional cases, is the period which we spend. The delay is really in receiving the initial recommedations. As far as the consultation with the Supreme Court is concerned, there is no delay. (*Interruptions*)

SHRI KAPIL SIBAL: So, the Government is not at fault. It is the Judiciary which is at fault. I would like to know whether it is the fact.

SHRI ARUN JAITLEY: I have just given you the figures. It is after detailed persuasion and repeated letters by the Law Minister as also the Chief Justice of India that in the last one or two months we have started getting more recommendations, and as against 156, today, we are still with only half of them, that is, 80 recommendations. (*Interruptions*)....

MR. CHAIRMAN: Question Hour is over. (*Interruptions*)....

SHRI KAPIL SIBAL: Sir, in the Delhi High Court, there are 8 vacancies (*Interruptions*)....

MR. CHAIRMAN: Question Hour is over.

SHRI KAPIL SIBAL: The whole judicial process requires to be revamped and the methodology must be changed. What is the hon. Minister's view on this?

SHRI ARUN JAITLEY: I agree with Mr. Sibal. We have already introduced a Constitution Amendment Bill, as far as the Parliament is concerned. The Standing Committee headed by Shri Pranab Mukherjee is seized with it. Whatever consensus that you can develop in that Standing Committee, we are willing to comply with it.

MR. CHAIRMAN: Question Hour is over.

WRITTEN ANSWERS TO STARRED QUESTIONS

Unauthorised Tobacco Barns in Karnataka

*83. SHRI K.B. KRISHNA MURTHY: Will the Minister of COMMERCE AND INDUSTRY be pleased to state: